

KENDELL MURPHY §
v. § CIVIL ACTION NO. 6:10cv508
BARRY ANDREWS, ET AL. §

The Plaintiff Kendell Murphy, proceeding *pro se*, filed this civil rights lawsuit under 42 U.S.C. §1983 complaining of alleged violations of his constitutional rights. This Court ordered that the matter be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

On January 28, 2011, Murphy filed a motion for entry of a default judgment, saying that the Defendants have not answered the lawsuit nor responded to his summons in the time required. The Magistrate Judge reviewed the motion and determined that no order to answer had been entered, nor had the Clerk issued service of process, because the case is still in the initial screening phase pursuant to 28 U.S.C. §1915A.

Consequently, the Magistrate Judge issued a Report recommending that the motion for default judgment be denied. Murphy filed objections to this Report saying that he was unfamiliar with the law and that his motion for entry of default was a “small misunderstanding.” He asked that the Court accept his objections and “look at the seriousness of me seeking legal representation.”


Murphy's objections set out no basis for objecting to the proposed findings of fact or conclusions of law of the Magistrate Judge with regard to his request for entry of a default judgment. The Magistrate Judge's proposed findings of fact and conclusions of law are correct.

The Court has conducted a careful *de novo* review of the pleadings in this cause, the Report of the Magistrate Judge and the Petitioner's objections thereto. Upon such *de novo* review, the Court has concluded that the Report of the Magistrate Judge is correct and that the Petitioner's objections are without merit. It is accordingly

ORDERED that the Petitioner's objections are overruled and the Report of the Magistrate Judge is ADOPTED as the opinion of the District Court. It is further

ORDERED that the Plaintiff's motion for entry of default (docket no. 25) is DENIED. The denial of this motion shall not prevent the Plaintiff Kendell Murphy from pursuing his claims on their merits, nor from seeking to obtain legal representation on his own or by requesting that the Court appoint counsel for him. Should he request that the Court do so, he is reminded that civil rights plaintiffs have no automatic right to appointment of counsel unless the case presents exceptional circumstances.

SIGNED this 16th day of March, 2011.


MICHAEL H. SCHNEIDER
UNITED STATES DISTRICT JUDGE